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OGC Has Reviewed

12 OCT
1979

DD/A Registry
File Legal

RECENT LEGAL DEVELOPMENTS

OFFICE OF GENERAL COUNSEL

11 October 1979

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Settlement negotiations have begun on a class action complaint brought against NFAC on the grounds of sex and age discrimination that could have far-reaching implications on Agency personnel practices. The complaint alleges a continuous pattern of discrimination against women working in NFAC and seeks redress in terms of enhanced training, job opportunities, travel, pay, and the establishment of specific hiring goals. While the Agency has not conceded that any discrimination has occurred, either against the plaintiff or the class (women), NFAC and OGC are working together to see if this matter can be brought to a satisfactory conclusion at this stage of the proceedings.

FOREIGN INTEREST AND CONCERN OVER FOIA

X1 OGC briefed a representative of [redacted] last week on the Freedom of Information Act and its impact on this Agency. This is the latest in a series of periodic briefings of visitors [redacted] services, many of whom have expressed concern over the Act and are seeking reassurance that information they provide can be protected in the judicial process. Almost all the services have come to these briefings concerned with the ability of the Agency to protect their information but have left them generally reassured as to our ability to date to do so. Some of our [redacted] remain

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concerned over the possible impact of disclosure laws on their information and retain a keen interest in the developing case law in this area since they expect to be faced with somewhat similar laws in their own countries.

COMPLETION OF MKULTRA-RELATED NOTIFICATION PROGRAM

The Agency has concluded its effort to notify all persons who were unwitting subjects and may be suffering long-term after-effects from Agency-supported behavioral research programs. Our efforts to acquire additional information regarding research conducted at institutions were largely negative and no subjects of such research have been identified. The SSCI and Senator Kennedy's Subcommittee on Health and Scientific Research seem to agree that the Agency has done all it can do in this regard. Some success was achieved with regard to the activities of George White, the Federal Bureau of Narcotics agent now made famous through television and other publicity, who was given drugs by the Agency with the understanding that he would report back whatever he learned regarding their use. White's diary provided leads to 15 possible test subjects, of which 10 have been located and notified, two are deceased, and three cannot be located.

PENDING CASES

Watts Litigation

The Office of Personnel Management (OPM) continues to investigate Roy F. Watts' claim for creditable federal service for the period of time he was employed by a former CIA proprietary company, Air America. It is the Agency's position that service with Air America and other such proprietaries is not creditable service for federal benefits, including retirement. An adverse determination on this issue by OPM would undercut the rationale upon which the Agency establishes and manages its proprietaries. On 11 October an OPM representative visited OGC to review files concerning the formation and management of Air America.

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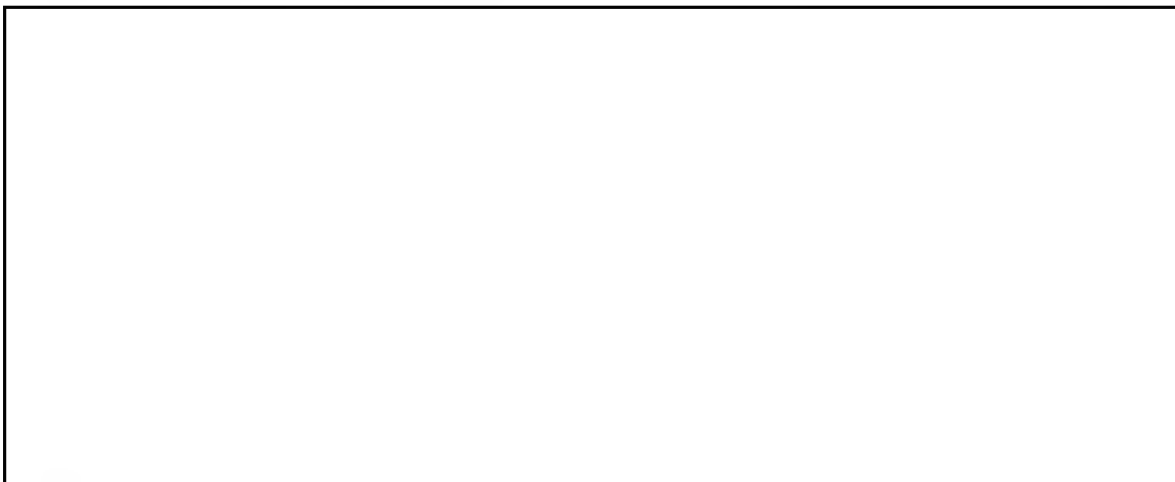
FOIA Requests and Litigation - MIA's

The Departments of State and Defense and this Agency are processing numerous requests under the Freedom of Information Act from the families of servicemen missing in action in Southeast Asia for information pertaining to them. Several of these requests are currently in litigation, and this Agency is a defendant in five of these lawsuits.

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Every effort is being made by all the agencies to release as much information as possible, and the only information being withheld by this Agency concerns the identification of sources. The Departments of State and Defense have also withheld information which would identify sources, citing as their authority the DCI's statutory responsibility to protect intelligence sources and methods. While OGC is of the view that the DCI's authority in this area extends to the protection of sources and methods of all agencies in the Intelligence Community, the Department of Justice is raising a question regarding the authority of other agencies to invoke the National Security Act on the DCI's behalf. For several years other agencies, particularly the National Security Agency, have invoked the sources and methods provision in the course of defending against disclosures under the FOIA. This Agency has condoned this practice because the alternative would be for the DCI or another senior CIA official personally to make representations in other agencies' FOIA cases that the information is properly protected by the National Security Act. Since the Department of Justice now fears that other agencies' authority in this area may be questioned in the absence of a specific delegation of authority by the DCI, we are formulating possible solutions to the problem, including possibly issuing a DCI directive to delegate such authority to senior officials in other agencies within the Intelligence Community.



FOIA Request of Elias P. Demetracopoulos

Mr. Demetracopoulos is a Greek journalist who became a permanent resident alien of the United States in 1967 and has numerous contacts among members of Congress and the journalist community. His FOIA request has sparked some congressional interest, and OGC has briefed two staff members of the SSCI concerning its status. The SSCI is investigating Mr. Demetracopoulos' allegations, including one that the CIA tried to harm him in December 1967. The SSCI staff is

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trying to finish its investigation, under way for some time, of Mr. Demetracopoulos' allegations and at a meeting on 4 October with OGC and OLC asked several additional questions which will require responses from the Directorate of Operations.

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